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Financing of the activities arising from Security Council resolution 687 (1991): United Nations Iraq-Kuwait Observation Mission

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Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 54/18 of 29 October 1999, in which the Secretary-General was requested to submit a comprehensive report on the question of the payment of mission subsistence allowance in the United Nations Iraq-Kuwait Observation Mission (UNIKOM).

2. It should be recalled that the Secretary-General submitted an extensive report on the issue during the fifty-third session of the General Assembly (A/53/1023). That report concluded that there had been a considerable overestimation of the overpayment in respect of military observers. The report of the Board of Auditors, also requested in General Assembly resolution 54/18, generally confirms the conclusions presented in the report of the Secretary-General (A/54/869).

3. Under the circumstances, the scope of the present report is limited to providing current information on the amount of the overpayment, as well as the amount recovered as at 31 March 2000. It also updates the information regarding the judicial process in respect of civilian staff members and recommends a course of action as regards military observers.

II. Civilian staff members — the judiciary process

4. With regard to the civilian staff members, the previous report of the Secretary-General highlighted some of the peculiarities of the rules governing mission subsistence allowance then in effect and pointed out the considerable potential for different interpretations and applications of the policy and procedures, which led to problems in the past, not only in UNIKOM, but also in other missions.

5. As previously reported, staff members have used the recourse mechanism available to them and challenged the principles on the basis of which the conclusions were reached that mission subsistence allowance policies had been misapplied. On 11 March 1999, the United Nations Administrative Tribunal issued a judgement remanding the case to the Joint Appeals Board for consideration on the merits.

6. In its report No. 1374, dated 2 November 1999, the Joint Appeals Board unanimously agreed that the UNIKOM administration exceeded its authority when

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it authorized payment of mission subsistence allowance to UNIKOM staff for annual leave for which no mission subsistence allowance leave credits had accrued, for official holidays and non-working days which fell during the annual leave for which no mission subsistence allowance leave credits had accrued and for occasional time off ("compensatory time off") taken outside the mission area in conjunction with annual/home leave for which no mission subsistence allowance leave credits had accrued.

7. The Joint Appeals Board also unanimously agreed that the Organization remained the rightful owner of the mission subsistence allowance overpayments and has the right to reclaim the overpaid public funds from the staff. The Secretary-General agreed with the conclusions of the Joint Appeals Board. However, the Secretary-General did not accept two additional recommendations made by the Joint Appeals Board, which would have reduced the total amount of overpayments to be recovered from the staff members.

8. At the time of the writing of the present report, the appellants have sought an extension of the time limit for submission of an appeal to the United Nations Administrative Tribunal. The judicial process in respect of civilian staff is therefore still ongoing.

III. Military observers

9. In its resolution 54/18, the General Assembly also requested the Board of Auditors to undertake a comprehensive audit of UNIKOM, in particular the question of overpayment of mission subsistence allowance. The Secretary-General has taken note of the report of the Board of Auditors and agrees with the recommendations made therein (A/54/869).

10. It is noted that the findings and conclusions of the Board of Auditors regarding the mission subsistence allowance payments to military observers are generally consistent with the conclusions of the review conducted by the Secretariat, that is that UNIKOM mission subsistence allowance payments to military observers in respect of annual leave and compensatory time off were inconsistent with the established procedures or were paid based on a formula which differed from the established one, but that these irregularities did not result in any final overpayment since the amounts paid were eventually earned. The mission subsistence allowance payments for compensatory time off spent in the home country were made in accordance with the relevant provisions of the Notes for the Guidance of Military Observers on Assignment to UNIKOM.

IV. Conclusion

11. Further review of the circumstances and the deviation from policy directives that led to the reported overpayment revealed not only the intractable complexity of the old mission subsistence allowance policy, but also that policies and practices which were more appropriate to civilian personnel were extended to military observers whose service with UNIKOM was governed by other directives, namely by the above-mentioned Notes for Guidance specifically issued for UNIKOM.

12. In view of the above, and subject to the approval of the General Assembly, it is the intention of the Secretary-General to continue recovery of funds in respect of civilian staff. It should be noted that the judicial process is still ongoing and that the final determination with regard to the overpayment or recovery of funds in respect of staff members is therefore subject to the judgement of the United Nations Administrative Tribunal. As regards military observers, it is the intention of the Secretary-General, subject to the approval of the General Assembly, to cease the recovery efforts as regards military observers and to reimburse the amounts already recovered to the individuals concerned.

Annex

United Nations Iraq-Kuwait Observation Mission
Summary of mission subsistence allowance overpayment
(as at 31 March 2000)

Category	*Number of staff*	*Amount due*	*Amount recovered*	*Balance*
Civilian staff on Headquarters payroll	137	624 191.50	619 738.71	4 452.79
Staff away from Headquarters	34	148 154.50	137 291.26	10 863.24
Separated	21	78 747.50	17 462.50	61 285.00
Total		**851 093.50**	**774 492.47**	**76 601.03**
Military observers	1 425	5 460 188.03	191 910.22	5 268 277.81
Grand total		**6 311 281.53**	**966 402.69**	**5 344 878.84**